

REMARKS/ARGUMENTS

In section 1 of the office action, claims 1, 8-10, 11, 18-20, 23, 26-28, and 30-31 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Dutt et al. (USP 6,202,114) in view of Dobbins et al. (USP 5,825,722) and Stone (USP 6,041,057). Applicant respectfully traverses the rejection.

The Examiner correctly admits in the Office Action that Dutt does not disclose the cost information packets are dynamic, that Dutt in view of Dobbins does not disclose a broadcast learn flag in an acknowledgement packet, and Dutt does not disclose a network switch that includes a computer readable storage medium embodying a method of managing a broadcast tree.

Dutt discloses calculating a cost for each link as $1000/LS$ where LS is the link speed in millions of bits per second (Mbps). Therefore, Dutt does not disclose nor suggest a method or network switch where a *"each dynamic cost information packet includes a cost information determined by a ratio of a port latency value and an available throughput of a port in the edge switch, where the port latency value is equal to a queue depth of data stored in at least one queue associated with the port divided by a data transfer speed associated with the port of the network switch"* as recited in claim 1 and in claim 11.

Accordingly, claim 1 and claim 11 are each patentable over the combination of Dutt, Dobbins, and Stone.

Furthermore, it would not have been obvious to modify Dutt with Dobbins and Stone because the combination would require a substantial reconstruction and redesign of the elements disclosed in the primary reference. (See MPEP 2143.01). For example, there is no suggestion in the

references on how to modify the elements in the Dutt to perform the various steps in claim 1 or claim 11.

Furthermore, Dutt and Dobbins and Stone do not suggest or disclose any interface circuitry, modules, systems, methods, and/or techniques that permit the elements disclosed in Dutt to perform the various steps in claim 1 or claim 11.

Therefore, the modification of Dutt, as suggested in the Office Action, is improper.

Accordingly, claim 1 and 11 are each patentable over the combination of Dutt and Dobbins and Stone.

Claims 8-10 and 18-20, 23, 26-28, and 30-31 depend from claim 1 or claim 11 and are patentable over the combination of Dutt and Dobbins and Stone for at least the same reasons that claim 1 or claim 11 are each patentable over the same combination.

Each of the claims 8-10, 18-20, 23, 26-28, and 30-31 further distinguishes over the combination of Dutt and Dobbins and Stone by reciting additional features.

Accordingly, each of the claims 8-10, 18-20, 23, 26-28, and 30-31 are each patentable over the combination of Dutt and Dobbins and Stone.

For the above reasons, Applicant requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

In section 3 of the office action, claims 2-7 and 12-17 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Dutt in view of Dobbins and Stone as applied to claims 1 or 11, and further in view of Allon et al. (USP 5,539,883). Applicant respectfully traverses the rejection.

The Examiner correctly states in the Office Action that Dutt in view of Dobbins and Stone does not disclose that the pruned broadcast tree is constructed responsive to an exchange of load balancing information.

Claims 2-7 and 12-17 depend from claim 1 and claim 11, respectively and are patentable over the combination of Dutt and Dobbins and Stone for at least the same reasons that claim 1 is patentable over the same combination.

Each of the claims 2-7 and 12-17 further distinguishes over the combination of Dutt and Dobbins and Stone and Allon by reciting additional features.

Furthermore, it would not have been obvious to modify Dutt with Dobbins and Stone and Allon because the combination would require a substantial reconstruction and redesign of the elements disclosed in the primary reference. (See MPEP 2143.01). For example, there is no suggestion in the references on how to modify the elements in the Dutt to perform the steps recited in claims 2-7 or claims 12-17. Furthermore, Dutt and Dobbins and Stone and Allon do not suggest or disclose any interface circuitry, modules, systems, methods, and/or techniques that permit the elements disclosed in Dutt to perform the various steps in claims 2-7 or claims 12-17. Therefore, the modification of Dutt, as suggested in the Office Action, is improper.

Accordingly, each of the claims 2-7 and 12-17 is patentable over the combination of Dutt and Dobbins and Stone and Allon.

For the above reasons, Applicant requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

In section 8 of the office action, claims 29 and 32 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Dutt in view of Dobbins and Stone as applied to claims 1 or 11, and further in view of Lamport et al. (USP 5,138,615). Applicant respectfully traverses the rejection.

The Examiner correctly admits that Dutt in view of Dobbins and Stone does not disclose recomputing a broadcast tree in response to detecting a fault.

Claims 29 and 32 depend from claim 1 and claim 11, respectively and are patentable over the combination of Dutt and Dobbins and Stone for at least the same reasons that claim 1 is patentable over the same combination.

Each of the claims 29 and 32 further distinguishes over the combination of Dutt and Dobbins and Stone and Lamport by reciting additional features.

Furthermore, it would not have been obvious to modify Dutt with Dobbins and Stone and Lamport because the combination would require a substantial reconstruction and redesign of the elements disclosed in the primary reference. (See MPEP 2143.01). For example, there is no suggestion in the references on how to modify the elements in the Dutt to perform the steps recited in claim 29 or claim 32.

Furthermore, Dutt and Dobbins and Stone and Lamport do not suggest or disclose any interface circuitry, modules, systems, methods, and/or techniques that permit the elements disclosed in Dutt to perform the various steps in claim 29 or claim 32. Therefore, the modification of Dutt, as suggested in the Office Action, is improper.

Accordingly, each of the claims 29 and 32 is patentable over the combination of Dutt and Dobbins and Stone and Lamport.

For the above reasons, Applicant requests reconsideration and withdrawal of this rejection under 35 U.S.C. §103.

New claims 33-44 are being added and recite features that are not disclosed by the cited references, considered singly or in combination.

For the above reasons, Applicant respectfully requests allowance of all pending claims.


If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is respectfully requested to specifically point out where such teachings may be found.

CONTACT INFORMATION

If the Examiner has any questions or needs any additional information, the Examiner is invited to telephone the undersigned attorney at (805) 681-5078.

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Respectfully submitted,
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